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SENATE BILL 961

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

James G. Taylor

AN ACT

RELATING TO ELECTIONS; REVISING PROCEDURES AND COST ALLOCATION
FOR COUNTY ANNEXATION ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 4-33-1 NMSA 1978 (being Laws 1947,
Chapter 196, Section 1) is amended to read:

"4-33-1. ANNEXATION BETWEEN COUNTIES--REASONS. --Whenever,
because of the location and conditions of roads or the
existence or nonexistence of transportation facilities, it
[will-be] is more convenient for the residents of any portion
of a county to travel to the county seat of some other
contiguous county and, because of such location and condition
of roads or the existence or nonexistence of transportation
facilities, it [will-be] is more convenient and economical for
[such] that other county to render governmental services to

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1 [such] that portion of [such] the other county, the portion of
2 the county so affected may be annexed to [such] the other
3 county in the [~~following~~] manner provided for in Chapter 4,
4 Article 33 NMSA 1978. "

5 Section 2. Section 4-33-2 NMSA 1978 (being Laws 1947,
6 Chapter 196, Section 2) is amended to read:

7 "4-33-2. PETITION FOR ANNEXATION. --

8 A. A petition executed by at least fifty-one
9 percent [~~(51%)~~] of the qualified electors residing within the
10 portion of the county proposed to be annexed shall be filed
11 with the board of county commissioners of the county in which
12 [such] that portion is located. [Such] The petition shall set
13 forth the facts showing the existence of the conditions
14 described in Section [~~1 hereof~~] 4-33-1 NMSA 1978 and shall
15 accurately set out the boundaries of the portion of the county
16 proposed to be annexed.

17 B. A petition seeking the annexation of territory
18 from one county into a new county or existing county shall:

19 (1) set forth the facts showing the existence
20 of conditions described in Section 4-33-1 NMSA 1978;

21 (2) be signed by fifty-one percent of the
22 qualified electors residing within the portion of the county
23 proposed to be annexed;

24 (3) be accompanied by maps that show the
25 external boundaries of the territory to be annexed; and

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1 (4) be presented to the board of county
2 commissioners of the county into which the territory is to be
3 annexed.

4 C. The board of county commissioners of the county
5 into which the territory is proposed to be annexed shall, by
6 ordinance, express its consent or rejection to the annexation
7 of such contiguous territory and shall allocate sufficient
8 funds to pay for one-half of the costs of any election held
9 pursuant to Chapter 4, Article 33 NMSA 1978."

10 Section 3. Section 4-33-3 NMSA 1978 (being Laws 1947,
11 Chapter 196, Section 3, as amended) is amended to read:

12 "4-33-3. CONTEST--NOTICE OF ELECTION. -- [~~Immediately upon~~
13 ~~the filing of such petition, it shall be the duty of the county~~
14 ~~commissioners with whom such petition is filed to]~~

15 A. If the board of county commissioners of the
16 county into which the territory is to be annexed consents to
17 the annexation, the petition shall be submitted to the board of
18 county commissioners of the county from which the territory is
19 proposed to be annexed. After confirming that the requirements
20 of Section 4-33-2 NMSA 1978 have been satisfied, the board of
21 county commissioners of the county from which the territory is
22 proposed to be annexed shall cause a notice to be published in
23 [some] a newspaper [or newspapers] of general circulation in
24 each county affected. Within thirty [(30)] days after the
25 publication of [such] the notice, [but not thereafter] any

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1 resident of either of the counties affected, on behalf of
2 himself and all others similarly situated, may bring an action
3 in the district court of the county in which ~~[such]~~ the area
4 proposed to be annexed is located, against any one or more of
5 the signers of the petition, alleging that the petition has not
6 been executed by the requisite number of signers or that the
7 ~~[description of the]~~ area to be annexed is not accurately
8 described or that the conditions described in Section ~~[1-(15-~~
9 ~~3305)-hereof]~~ 4-33-1 NMSA 1978 do not exist.

10 B. The judge, after hearing, shall make a
11 determination as to whether the allegations of the petition are
12 ~~[well taken]~~ correct. If ~~[he shall determine]~~ the judge
13 determines that the allegations of the petition are ~~[well~~
14 ~~taken, he]~~ correct, the judge shall enter an order ~~[and]~~ for an
15 election. If the ~~[same be]~~ order is not stayed, it shall be
16 the duty of the board of county commissioners to call an
17 election to be held within ~~[30]~~ thirty days within the county
18 of the area proposed to be annexed and ~~[shall]~~ to cause a
19 notice of election to be published two ~~[-2-]~~ times in a
20 newspaper of general circulation in ~~[said]~~ the county, the last
21 publication ~~[thereof]~~ date to be at least seven ~~[-7-]~~ days
22 before the date set for the election. ~~[Such]~~ The notice shall
23 specify the polling places, which ~~[polling places shall]~~ may
24 not be ~~[not]~~ fewer in number than ~~[there were]~~ in ~~[said]~~ the
25 county at the last general election. At ~~[such]~~ the election,

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1 all qualified electors who reside within ~~[said]~~ the county
2 shall be entitled to vote ~~[provided, however, that this Act~~
3 ~~shall not apply in any case where a petition has been filed~~
4 ~~with any board of county commissioners under Chapter 196 of New~~
5 ~~Mexico Session Laws of 1947 in accordance with the requirements~~
6 ~~of said Act of 1947, and where such a petition has been filed~~
7 ~~prior to the effective date of this Act, the election shall be~~
8 ~~held under the provisions of Chapter 196, New Mexico Session~~
9 ~~Laws of 1947]. "~~

10 Section 4. Section 4-33-4 NMSA 1978 (being Laws 1947,
11 Chapter 196, Section 4) is amended to read:

12 "4-33-4. ELECTION JUDGES-- FORM OF BALLOT. -- ~~[At such~~
13 ~~election held hereunder, there shall be three election judges~~
14 ~~named by the county commissioners. Ballots shall be printed~~
15 ~~and furnished by the county commissioners, which ballots shall~~
16 ~~read as follows]~~

17 A. An election held pursuant to Chapter 4, Article
18 33 NMSA 1978 shall be conducted in accordance with the Election
19 Code.

20 B. The cost of any election held pursuant to
21 Chapter 4, Article 33 NMSA 1978 shall be borne by both counties
22 equally.

23 C. Ballots shall be printed and furnished by the
24 board of county commissioners of the county from which the
25 territory is proposed to be annexed and ballots shall read as

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1 follows:

2 "Shall the area described in the petition
3 filed with the county commissioners of
4 _____ county be annexed to
5 _____ county?

6 For annexation _____
7 Against annexation _____." "

8 Section 5. Section 4-33-5 NMSA 1978 (being Laws 1947,
9 Chapter 196, Section 5) is amended to read:

10 "4-33-5. COUNTING AND CANVASSING VOTES. --The ballots cast
11 in an election held pursuant to Sections 4-33-3 and 4-33-4 NMSA
12 1978 shall be counted [~~by the election officials and the~~
13 ~~results thereof certified to the county commissioners. Within~~
14 ~~three days after the election held as herein provided, the~~
15 ~~county commissioners shall meet and canvass the vote cast and.~~
16 ~~If a majority of those voting shall have voted for the~~
17 ~~annexation, the area as described in the petition shall be~~
18 ~~annexed to the other county as provided in said petition]~~
19 pursuant to the Election Code. "